

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

MONSANTO COMPANY, et al.,)
)
 Plaintiffs,)
)
 v.) Civ. No. 04-908-SLR
)
SYNGENTA SEEDS, INC., et al.,)
)
 Defendants.)

AMERICAN SEED COMPANY, INC.,)
)
 Plaintiff,)
)
DARRELL SOUHRADA and KENT)
DUXBURY,)
)
 Intervenor)
 Plaintiffs,)
)
 v.) Civ. No. 05-535-SLR
)
MONSANTO COMPANY,)
)
 Defendant.)

ORDER GOVERNING COORDINATION OF PRETRIAL ANTITRUST DISCOVERY

At Wilmington this 6th day of December, 2005,

IT IS ORDERED that:

1. The parties in American Seed Co., Inc. v. Monsanto Company, Civ. No. 05-535-SLR (including the intervening plaintiffs) (the "American Seed Action") and Syngenta Seeds Inc. v. Monsanto Company, et al., Civ. No. 04-908-SLR (the "Syngenta Action") are ordered to work together in good faith to coordinate

discovery and prevent duplication of discovery and effort.

2. The parties shall cooperate reasonably in providing copies of discovery requests and responses thereto filed or served prior to the date of this order within five (5) business days of the date of this order. The parties shall avoid propounding interrogatories, document requests or other written discovery requests that are either identical or substantially similar to any previously filed discovery.

3. Documents produced in the American Seed and Syngenta Actions shall be made available to counsel in all cases on a reasonable basis and under terms and conditions produced to the opposing side (or received from third parties) in those Actions.

4. Deposition transcripts from the Syngenta Action shall be made available to counsel in all cases in the same paper and CD formats as received by the parties in the Syngenta Action. Any deposition noticed in the American Seed and Syngenta Actions shall be served on counsel in all cases, but the parties in the American Seed and Syngenta Actions shall not be permitted to participate in the other Action's depositions. The parties in these actions shall not object to a second deposition on the grounds it has already been taken.

5. The coordination of discovery in these cases should not disadvantage those court reporting services who record the various depositions. Therefore, the American Seed plaintiffs

should not bypass the court reporting fees altogether. In this regard, however, it is the court's understanding that many court reporting services charge an initial fee to those parties actually participating in the deposition, and a lower fee to those who request copies of the deposition transcripts at a later time. The American Seed plaintiffs should pay the latter, lower fee, for those depositions noticed in the Syngenta Action. If the Syngenta parties select court reporting services that make no distinction between producing the original transcript and making copies, the American Seed plaintiffs will be able to obtain, in a timely manner, transcripts from the Syngenta parties at the cost of reproducing the computer disk or paper transcript.

6. Any document, interrogatory response, deposition testimony or other matter that is designated confidential under the Protective Order entered on January 31, 2005 in the Syngenta Action shall be deemed to have been designated as "confidential" in all matters and the terms of that Protective Order shall govern all parties in all Actions.

7. All depositions in the Syngenta Action shall be used as permitted by the Federal Rules of Civil Procedure and Federal Rules of Evidence as if taken or propounded in the American Seed Action subject to the provisions of paragraph 7 of this order.

8. Nothing contained herein shall constitute a waiver of any objection of any party to the admissibility at trial of any

document, deposition testimony, exhibit, or written discovery responses provided in accordance with this order, whether on grounds of relevance, materiality, or any other basis and all such objections are specifically reserved.

9. Any provision of this order may be modified upon good cause shown.



United States District Judge